THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

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WRIT PETITION No.10774 OF 2006

DATE: 30-05-2006

Between:

M/s.Hi-Tech Theatre . . .Petitioner

and

Mr.K.Laxman Rao and others . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION No.10774 OF 2006

O R D E R: (per LNR, J)

The petitioner is a theatre situated at Madhapur within the limits of Serilingampally Municipality. On account of the up-gradation of the Municipality, an order was passed to the effect that the petitioner is liable to pay arrears of entertainment tax. In addition to that the first respondent passed an order levying interest on the amount due. Based on the same, the fourth respondent issued an order of garnishee. Aggrieved thereby, the petitioner preferred an appeal before the second respondent together with an application for stay. The petitioner contends that the second respondent heard the appeal on 07-12-2005 and it was treated as part heard. The complaint of the petitioner is that even at such an advanced stage, the third respondent, who is holding full additional charge of the second respondent, passed an order rejecting the application for stay and also request of the petitioner for adjournment for a few days. The same is challenged in this writ petition.

Heard the learned counsel for the petitioner and the learned special Government Pleader for Commercial Taxes.

From a perusal of the notices of hearing issued by the second respondent from time to time, it is evident that hearing took place on several days preceding 15-05-2006. In fact, the appeal itself was posted for hearing on that date through hearing notice, dated 09-05-2006. Instead of disposing the appeal duly granting stay, the third respondent has chosen to reject the application and continue the appeal. Regard must be had to the fact that what is involved is the component of interest and not the original liability.

In the circumstances, we direct that the order passed by the first respondent levying interest against the petitioner shall remain stayed till disposal of the appeal preferred by the petitioner before the second respondent and the petitioner, in turn, shall not seek any adjournment in the hearing of the said appeal.

It is represented that the regular incumbent is posted in the office of the second respondent as an appellate authority, the second respondent herein. If that be so, the appeal shall be disposed of within a period of four (4) weeks

from the date of receipt of a copy of this order. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

30th MAY, 2006.

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(D.APPA RAO, J)

kvni/vrn